IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 11198 of 2007(G)

PETITIONER:

JOSE GEORGE, VAKKAYIL HOUSE,
MATTAKKARA, PADUVA P.O., KOTTAYAM-686 001.

BY ADV. SMT.LEENA KRISHNAN

RESPONDENTS:

ASSISTANT PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANIZATION,
SUB REGIONAL OFFICE, CHALAKKUZHY BUILDING,
CMS COLLEGE ROAD, P.B.NO.36, KOTTAYAM-686 001,
KERALA.

BY SHRI.THATTIL ITTOOP.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.11198 of 2007

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Dated this the 2nd day of April, 2007

J U D G M E N T

The petitioner is the Managing Director of a company by name, "M/s.Matha Roller Flour Mills (P) Ltd.". By Ext.P1 order damages have been assessed under section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act to the tune of Rs.78,459/-. That amount together with interest under section 7Q of the Act for delayed payment of the contributions amounting to Rs.26,489/- has been demanded as per Ext.P2 notice. The petitioner is challenging Ext.P2 notice. The contention of the petitioner is that against Exts.P1 and P2 orders, the petitioner has filed Ext.P3 appeal and submits that while the appeal is pending, the respondent is taking coercive action for recovery of the above said amount, against which the petitioner seeks stay pending disposal of the appeal, in this writ

petition.

2. I have heard the learned counsel for the petitioner as also the learned Standing Counsel appearing for the Provident Fund Organizaiton.

3. The petitioner submits that the establishment is already closed down and the petitioner is not in a position to raise even the interest under Section 7Q. Therefore, he seeks an absolute stay of the recovery proceedings.

4. Section 7Q interest cannot be the subject matter of an appeal since it is a statutory liability on the part of the petitioner. Therefore, I do not think that the petitioner can get any stay in respect thereof. Normally the petitioner should have approached the Tribunal itself for stay of recovery of the amounts demanded as per Exts.P1 and P2, since the petitioner has already approached the Tribunal with Ext.P3. However, taking into account the fact that the Tribunal, which again started functioning after a long delay of more than a year for want of appointment of the Presiding Officer by

the Government would be overburdened with work, I feel that some indulgence can be shown to the petitioner in the matter of payment of the amounts due. Accordingly, this writ petition is disposed as follows:

5. The coercive recovery of the amounts due as per Exts.P1 and P2 shall be kept in abeyance till the disposal of Ext.P3 appeal on condition that the petitioner pays an amount of Rs.30,000/- within two months from today.

sdk+ S.SIRI JAGAN, JUDGE